

Testimony to the

INTERIM JUDICIARY COMMITTEE

Prepared July 26, 2011 by the North Dakota Association of Counties

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**CONCERNING THE UNIFORM ELECTRONIC RECORDING OF
CUSTODIAL INTERROGATIONS ACT STUDY**

Chairman Nething and members of the committee, the North Dakota Association of Counties is here today to offer our support network to assist your study of this very significant issue.

As the committee is likely aware, this issue affects a large number of our members – most directly State's Attorneys and Sheriffs. Since the introduction of SB 2125, there have been numerous discussions among them about what exactly that bill would have required and how it could have been effectively implemented.

During the 2011 Session, our Association's attorney, Aaron Birst, conducted an informal survey of the State's Attorneys on the proposed legislation. It generated a large number of comments. The comments reflected a general disfavor of the specifics of SB 2125. However, there were also a few positive comments regarding some of the concepts. This apparent contradiction probably speaks more to the old saying "the devil is in the details."

Finally, I would like to leave you with a few thoughts to keep in mind throughout your study.

- 1) Not all jurisdictions have the same resources – making a "one size fits all" solution possibly problematic,
- 2) Equipment breaks,
- 3) It is not always easy to determine when a conversation becomes an interrogation, and
- 4) It is not always easy to determine when an interrogation becomes custodial.

We look forward to working with the committee and our members to make sure you have the best information to help guide your decision-making.

Thank you.